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09/663,661	09/15/2000	Thomas S. Abbott		2183

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10/31/2003

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EXAMINER

CAPRON, AARON J

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 10/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/663,661

Applicant(s)

ABBOTT, THOMAS S.

Examiner

Aaron J. Capron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 26-35 is/are rejected.
- 7) ☒ Claim(s) 20-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

This is a response to the Amendment received on September 29, 2003, in which claims 10-12, 21, 23, 25-27, 32 and 35 were amended. Claims 1-35 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakamoto (U.S. Patent No. 6,315,663).

Sakamoto discloses an electronic video based apparatus for simulating a rotating reel game comprising means for displaying to a player on a video screen a plurality of reels (Figure 1, 28:66-29:5), means to make the means for displaying the plurality of reels to appear to rotate the reels by successively projecting on the video screen images of a reel at differing locations on the video screen (Figure 1), means for displaying on the reels a plurality of full symbols of predetermined fixed symbols (Figure 3), for each of the plurality of reels, means to stop the apparent rotation of the reel, the means to stop controlled by the player (3:34-36), means for determining whether player has used the means to stop so that at least one of the pre-determined fixed symbols is stopped within a predetermined location on the video screen (Figure 4; 1:61-2:3 shows that a shifting symbols has the ability to be restricted within a predetermined number, for

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example 5 symbols which correlates to any symbols less than five), and means for determining results of the play of game based on whether the player used the means to stop whereby at least one of the predetermined fixed symbols is stopped within one of said predetermined locations (Figure 4).

Referring to claim 11, Sakamoto discloses an electronic video based apparatus wherein the means to stop allows a player at least one-tenth of second to use the means to stop the symbol (1:44-52)

Claims 26-27 correspond in scope to a method set forth for use of the video based apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Claims 1-2 correspond in scope to a game apparatus set forth for use of the structure listed in claims above and are encompassed by use as set forth in the rejection above. Sakamoto discloses that at least two full symbols are displayed (Figures 3-4).

Referring to claims 3 and 12, Sakamoto discloses a bonus window that displays one of the plurality of predetermined fixed symbols (4:65-5:11).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 11 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto in view of Nolte et al. (U.S. Patent No. 6,165,070; hereafter "Nolte").

Referring to claims 2, 11 and 27, Sakamoto discloses the means for rotating each of the reels, but does not specifically disclose the time interval to enact the player control stop to stop at each symbol. However, Nolte discloses using a variable time interval to use a player control stop (Figure 3A; column 9, lines 29-34); wherein the signal can be any time based upon the casino's preferences. One would be motivated to provide a variable time interval for a player control stop in order to have the ability to reprogram the game machine to increase the complexity and diversity of the slot machine program (1:47-50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the variable time interval of Nolte into the gaming device of Sakamoto in order to have the ability to reprogram the game machine to increase the complexity and diversity of the slot machine program.

Claims 3-9, 12-19 and 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto in view of Nolte et al. (U.S. Patent No. 6,165,070; hereafter "Nolte") as disclosed in claims 2, 11 and 27, further in view of Bennett (U.S. Patent No. 6,190,254).

Referring to claim 3, Sakamoto in view of Nolte disclose gaming machine, but does not disclose having a bonus window randomly displaying one of a plurality of predetermined fixed symbols, prior to play of the game. However, Bennett provides a bonus window randomly displaying one of a plurality of predetermined symbols (abstract, 2:18-26) that increase the outcome results in order to add interest to the existing games (1:10-15). One would be motivated

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to combine the references in order to add interest to the existing games. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the bonus window feature of Bennett into the gaming device of Sakamoto in view of Nolte in order to add interest to the existing games.

Referring to claim 4, Sakamoto in view of Nolte disclose an electronic video base apparatus wherein each of the plurality of reels has the same total number of predetermined fixed symbols that are randomized (Nolte: Column 6, lines 30-63).

Referring to claim 5, Sakamoto and Nolte disclose an electronic video apparatus wherein the plurality of predetermined fixed symbols is a fixed amount and a fixed multiple number of the fixed amount of predetermined fixed symbols is randomly distributed on each of the reels, whereby each reel will have for each individual symbol that fixed multiple number of the individual symbols displayed on the reel whereby no symbol appears more or less frequently than any other symbol on said reel (Nolte: Master Iconic Database Table, Partial Randomized Iconic Database Table (A and B) and Proposal 1).

Referring to claim 6, Sakamoto and Nolte disclose that there is no timeout for the rotating cylinders if the player does not depress the stop button. However, Nolte also discloses that prior art exists that contains a timeout that forces the player to select the stop button (Sakamoto 2:16-27 and Nolte Column 11, lines 1-10)

Referring to claim 7, Sakamoto and Nolte disclose an electronic video base apparatus wherein the fixed symbols are constrained to stop outside of the predetermined location at expiration of the fixed amount of time unless player has used the means to stop within the fixed amount of time determined by the timer to stop the reel (Sakamoto 1:61-2:9).

Referring to claim 8, Sakamoto and Nolte disclose an electronic video base apparatus wherein if a player is successful in using the means to stop a predetermined number of the fixed symbols matching the bonus symbol in the predetermined location, then player is awarded by a special bonus table (Column 12, lines 35-44).

Referring to claim 9, Sakamoto and Nolte disclose an electronic video base apparatus further comprising information relating to a player and the game (Column 19, Report Table), but fails to disclose a game counter to record how many games have been played. It is well known in the art to use counters to keep track of the number of games. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include games played into the Report Table because software could be easily manipulated to include the games played to further track the popularity of a game.

Claim 12 and 14 corresponds in scope to a method set forth for use of the structure listed in claims above and is encompassed by use as set forth in the rejection above.

Referring to claim 13, Sakamoto and Nolte disclose an electronic video base apparatus wherein each of the plurality of reels has the same total number of predetermined fixed symbols (Column 6, lines 46-63).

Referring to claims 15 and 16, Sakamoto and Nolte disclose an electronic video base apparatus wherein the fixed symbols are constrained to stop outside of the predetermined location at expiration of the fixed amount of time unless player has used the means to stop within the fixed amount of time determined by the timer to stop the reel (Sakamoto 2:16-27).

Referring to claim 17, Sakamoto and Nolte disclose an electronic video base apparatus that comprises means for shuffling the random distribution of the symbols on each of the reels,

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the means for shuffling constrained to operate only between games and not during play of a game (Column 1, lines 54-58 and Column 6, lines 41-45).

Referring to claim 18, Sakamoto and Nolte disclose an electronic video base apparatus wherein the means for shuffling is constrained so that no more than two of any same symbol will be in succession on a reel but where the symbols are otherwise randomly distributed on each of the reels (Master Iconic Database Table, Partial Randomized Iconic Database Table (A and B) and Proposal 1).

Referring to claim 19, Sakamoto and Nolte disclose an electronic video base apparatus wherein raising levels (means for shuffling, time delay updates) is constrained to operate after a predetermined number of time (Column 14, lines 38-45 and the Programmer's Report Table), but not by the number of games. It is notoriously well known within the art to alter a game configuration after a predetermined number of games in order to limit a skilled player so the player cannot win a great majority of the games. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the number of games played into the method for level progression in order to limit a skilled player so the player cannot win a great majority of the games and still make the game challenging.

Claims 28-35 correspond in scope to a method set forth for use of the video based apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Allowable Subject Matter

Claims 20-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed September 29, 2003 have been fully considered but they are not persuasive.

Applicant argues that Sakamoto does not disclose displaying a plurality of full symbols to a player. However, Sakamoto discloses a plurality of full symbols on each reel (Figure 3). Therefore, the claimed invention fails to preclude the device of Sakamoto.

Applicant argues that Sakamoto does not require that a player input stop instructions. However, Sakamoto discloses that a player has the ability to stop the reels in the gaming machine (6:35-37). The claimed invention is not so limiting as to exclude that the gaming machine can receive stop instructions from either the gaming machine or the player. Further, Applicant argues that stop instructions do not immediately stop the reels. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., stop instructions immediately stop the reels) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Even Applicant's most limiting claim of the invention does not state that the reel is stopped immediately. Therefore, the claimed invention fails to preclude the device of Sakamoto.

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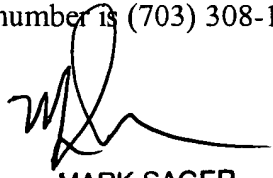
Applicant argues that Sakamoto does not disclose means for determining whether a symbol is stopped within a predetermined location. However, Sakamoto discloses evaluating the symbol combination of at least one of the two full symbols (16:5-13) after the reel stop instructions have been issued by the player (Figure 6). Therefore, the claimed invention fails to preclude the device of Sakamoto.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


MARK SAGER
PRIMARY EXAMINER

ajc